June 28, 2011



California First-Year Law Students' Examination

Answer all 4 questions.

Time allotted: 4 hours

Your answer should demonstrate your ability to analyze the facts in the question, to tell the difference between material facts and immaterial facts, and to discern the points of law and fact upon which the case turns. Your answer should show that you know and understand the pertinent principles and theories of law, their qualifications and limitations, and their relationships to each other.

Your answer should evidence your ability to apply the law to the given facts and to reason in a logical, lawyer-like manner from the premises you adopt to a sound conclusion. Do not merely show that you remember legal principles. Instead, try to demonstrate your proficiency in using and applying them.

If your answer contains only a statement of your conclusions, you will receive little credit. State fully the reasons that support your conclusions, and discuss all points thoroughly.

Your answer should be complete, but you should not volunteer information or discuss legal doctrines which are not pertinent to the solution of the problem.

You should answer the questions according to legal theories and principles of general application.

Mel suffers from a mental disorder that gives rise to a subconscious desire to commit homicide. Under the influence of the mental disorder, Mel formulated a plan to kill Herb by breaking into Herb's house and shooting him to death while he was asleep.

Brent, who had never met or communicated with Mel, learned of Mel's plan. Brent knew when and where Mel intended to kill Herb, and he desired to assist Mel in the crime.

On the night Mel intended to kill Herb, unbeknownst to Mel, Brent forced open the front door to Herb's house so as to effectuate Mel's entry and facilitate his killing of Herb. Mel arrived at Herb's house. He discovered the front door open and entered the house. Mel tiptoed to the bedroom and sprayed bullets into Herb's body. Unbeknownst to either Mel or Brent, Herb had died of a heart attack an hour before Mel fired the bullets.

- 1. Are Mel and/or Brent guilty of:
 - a. Murder? Discuss.
 - b. Attempted murder? Discuss.
 - c. Conspiracy to commit murder? Discuss.
- 2. Does Mel have a defense of insanity? Discuss.

Paula has owned property in a relatively undeveloped area near the top of Black Mountain for many years.

Six years ago, Telephone Company erected a cell phone transmission tower on Black Mountain not far from Paula's property.

Four years ago, Paula built a cabin on her property and began to spend most of her free time there engaging in bird watching and other outdoor activities.

Last year, Telephone Company leased space on the tower for an emergency alert siren and agreed to install the siren and to test it regularly. The site was chosen because it allows the siren's warning to carry farther than from any other site.

Telephone Company promptly installed the siren. Since its installation, it has tested the siren for a five-minute period weekly. The resulting sound is so loud as to cause Paula to stop whatever she is doing and cover her ears. It also greatly reduces the local bird population.

Two months ago, Paula sent a letter to Telephone Company outlining the effects of the siren and demanding that it cease its activities. Telephone Company has not responded to Paula's demand.

Does Paula have any claim against Telephone Company? Discuss.

Buyer wished to upgrade its 5,000 lighting fixtures to meet new energy conservation standards, but had been unable to find compatible lighting elements.

Buyer wrote to Seller, explaining its needs.

On July 1, Seller e-mailed Buyer:

We believe we can manufacture the lighting elements that you require. We are prepared to supply 5,000 at \$100 each. We understand that this is much more than you anticipated paying, but the redesign to meet your specifications will not be easy. We need to do this deal by September 1. If not, we will have to turn our attention elsewhere.

Buyer was relieved that it would not need to replace its existing lighting fixtures. Buyer felt sufficiently confident that it would be able to secure funding for the purchase so it terminated ongoing negotiations with manufacturers for replacement lighting fixtures.

On August 1, Buyer received notice that funds would be available. It immediately attempted to e-mail Seller: "We got the money. We have a done deal." Seller did not, however, receive the message because Buyer sent it to the wrong e-mail address.

On August 10, Seller e-mailed Buyer:

We have reconsidered. Because of new commitments, we will not be able to supply the lighting elements as planned. Sorry.

Because its computer was down on August 10 and 11, Buyer was unaware of Seller's August 10th e-mail message.

On August 12, Buyer telephoned Seller and the following exchange ensued:

Buyer: Our computers have been down for a couple of days, but we assume you got our message. Our people are real excited about this.

Seller: What message? And we told you two days ago we could not do the lighting elements.

Seller has refused to supply the lighting elements. It will be very difficult and expensive for Buyer to acquire replacement lighting fixtures.

Can Buyer prevail in a breach of contract action against Seller? Discuss.

Victoria lived in a house with her roommates Ben and Carl. One night, Albert entered the house through an unlocked, but closed, back door and went into Victoria's bedroom. Albert removed a partially full bottle of whiskey and a knife from his pockets, and threatened to harm Victoria if she screamed.

At that point, Ben and Carl discovered Albert in Victoria's room. Catching sight of Ben and Carl, Albert took off running. Ben said to Carl, "Let's get him!" Ben and Carl chased Albert out of the house and down the front stairs. Albert got into a vehicle and drove away. Ben and Carl jumped into a neighbor's vehicle, which had its keys in the ignition, and sped after Albert.

Ben and Carl caught up with Albert in a deserted shopping center. Ben drove into the passenger side of Albert's vehicle and pushed it until its driver's side came to rest against the wall of a building, trapping Albert inside. No one was injured. At that time, the police arrived and arrested Albert, Ben, and Carl.

- 1. What crimes, if any, might Albert reasonably be charged with, and what defenses, if any, might he reasonably assert? Discuss.
- 2. What crimes, if any, might Ben and Carl reasonably be charged with, and what defenses, if any, might they reasonably assert? Discuss.